

# Agenda

## Greensboro City Council

Post RUCO Review Committee  
Tuesday May 14, 2013  
10:30 am – Noon  
Plaza Level Conference Room

- I. Call to Order – Council Member Nancy Hoffmann, Chair
- II. Approval of the April 25, 2013 Minutes - Committee
- III. Staff Presentation:
  - a. Update on status of HB 773 – Mujeeb Shah-Khan, City Attorney
  - b. Summary overview of revised draft ordinance language – Mike Williams, Associate General Counsel
- IV. Committee Discussion – Committee
- V. Public Comment Session – Council Member Nancy Hoffmann, Chair
- VI. Committee Follow-up – Council Member Nancy Hoffmann, Chair
  - a. Follow-up items: Committee and staff
  - b. Next steps / meeting

### MEMBERS OF COUNCIL

ROBBIE PERKINS, Mayor  
YVONNE J. JOHNSON, Mayor Pro Tem  
NANCY VAUGHAN, At Large  
MARIKAY ABUZUAITER, At Large

T. DIANNE BELLAMY-SMALL, District One  
JIM KEE, District Two  
ZACK MATHENY, District Three  
NANCY HOFFMANN, District Four  
TONY G. WILKINS, District Five

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MINUTES OF THE POST RUCO REVIEW COMMITTEE  
OF THE  
CITY OF GREENSBORO, NORTH CAROLINA

COMMITTEE MEETING

25 APRIL 2013

The Post RUCO Review Committee of the City of Greensboro met at 3:00 p.m. on the above date in the City Council Chamber of the Melvin Municipal Office Building with the following members present: Councilmember and Chair Nancy Hoffmann; Mayor Pro-Tem Yvonne J. Johnson and Councilmembers Marikay Abuzaiter and Nancy Vaughan. Absent: None.

Also present were Deputy City Manager Jim Westmoreland, Assistant General Counsel Mike Williams, Planning and Community Development Director Sue Schwartz, and City Clerk Elizabeth H. Richardson.

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Councilmember Hoffmann opened the meeting at 3:10 p.m.; and welcomed those in attendance. Councilmember Abuzaiter made a motion to adopt the minutes from the April 11<sup>th</sup> meeting of the Post RUCO Committee meeting. The motion was seconded by Councilmember Vaughan and adopted by voice vote of the Committee.

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Councilmember Hoffmann recognized Planning and Community Development Director Sue Schwartz and Assistant General Counsel Mike Williams for a presentation.

Ms. Schwartz informed the Committee that comments had been received from the public; forwarded to the Committee; referenced the names of the groups that had provided comments; and outlined the types of comments received in the following PowerPoint Presentation:

Post RUCO Committee  
April 25, 2012

Public Comments Received

- ☐ TREBIC/PTAA/GLA – combined response
- ☐ Greensboro Neighborhood Congress
- ☐ Tenants Association of Greensboro
- ☐ Greensboro Housing Coalition
- ☐ Individual citizens

Comment Types

- ☐ Definitions of good cause, reasonable time, legal possession, and notification
- ☐ Director's authority for extension
- ☐ Rental of units not in compliance
- ☐ Applicability to vacant units
- ☐ Thresholds for periodic inspections
- ☐ Property registration program
- ☐ Assigning tenant responsibility/penalties
- ☐ Civil fines versus re-inspection fees

Councilmember Hoffmann stated the Committee would hear from Speakers who would be allotted five minutes each; and requested they sign up at the podium.

Brian Higgins, 1007 Haywood Street, explained that he would highlight some of the comments he had forwarded to the Committee; voiced concerns with City involvement in resolving landlord/tenant disputes prior to assessing fines and responsibility for the damage; referenced the proposed Section 11-40 which referred to said dispute resolution; asked for clarification for the term 'legal possession' referred to in Section 11-31; spoke to possible delays in inspections due to having to notify the owner; and possible unpleasant dialogue should both landlord and tenant be present for an inspection. Mr. Higgins addressed the appeals process; referenced that a prominent landowner in the Glenwood Neighborhood had properties that were removed from the list of properties; suggested that the process not be deviated; and requested that properties go before the Minimum Housing Code prior to going to the Planning and Community Development Director for appeals.

The Committee discussed differences between the responsibilities of the landlord and tenant; and references to the issue in the Ordinance and International Property Maintenance Code.

Ms. Schwartz confirmed that the City followed the International Property Maintenance Code guidelines.

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Mayor Pro-Tem Johnson arrived at 3:22 p.m.

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Michael Pendergraft, 106 Kensington Road, provided a copy of the Greensboro Neighborhood Congress comments; stated he wanted to correct a misapprehension that the Congress had backed away from some of the G4 recommendations; stated the Congress would submit a synopsis of the G4 proposal; addressed the issue of portions of the Charter not referenced in the Code; referenced the importance of transparency; reiterated the Congress' position that fines needed to be enforced; referenced Section 39E of the ordinance regarding costs for repairs and demolitions; and voiced concern for the priority of liens.

Marlene Sanford with TREBIC, 115 South Westgate Drive, referenced reasons for granting extensions to landlords in circumstances where vacancies remained to avoid vandalism if the owner was waiting for the entire building to vacate prior to doing a rehabilitation; spoke to the threshold for when units could be inspected being unreasonable; suggested the threshold be changed to a percentage of units owned threshold; voiced concerns for the re-inspection fees and civil fines; and asked that TREBIC be allowed to review any guiding documentation prior to adoption.

Councilmember Hoffmann asked for clarification if an owner had six violations and four had been cured, whether the City should not be concerned about getting the remaining two cured.

Ms. Sanford responded that the landlord community would uphold that if some of the five violations were remaining at the end of the cure period, you should not necessarily be perceived on all of the penalties; and explained that the task force had come to a consensus that if some of the violations remained at the end of the cure period then the penalties would kick in but were concerned with how the penalties were then applied. Ms. Sanford continued that the landlord should never suffer penalties due to the tenant's violations.

Councilmember Hoffmann inquired how it would be determined if the damage was caused by the tenant.

Ms. Sanford explained that damages to the walls, windows, fixtures or something being flushed down the toilet were probably the tenant's; that the landlord was responsible for documenting the condition of the unit prior to the tenant taking possession in order to prove damage by the tenant if necessary; explained that follow up inspections would be more effective than a registration list; and added that the City Attorney pursuing civil fines would pose a challenge to the landlord community. Ms. Sanford added that TREBIC would like to have the opportunity to review any documentation for the fine process; and clarified that the landlord community had agreed to the reinspection fees based on the fact that civil fines would not be pursued.

Councilmember Hoffmann asked when an inspector inspected properties if they made the determination as to who caused the damage.

Ms. Schwartz explained that the inspectors had guidelines and good judgment based on what might seem obvious; and followed the guiding principles set out in the International Property Maintenance Code.

Beth McKee Huger, 408 Woodlawn Avenue, thanked the Committee for their work; voiced agreement with the Neighborhood Congress for the timeline for properties to be brought into compliance; voiced concern for the timeframe provided in the proposed amendment; explained that some landlords waited to receive a security deposit prior to making repairs which she felt should be a violation; and addressed the possible distraction to inspectors should both the owner and tenant be present for inspections.

Councilmember Hoffmann asked for clarification on the reference made by Ms. McKee-Huger that the landlord would be notified at the same time the tenant had made a complaint.

Attorney Williams stated he misspoke at the last meeting; outlined the process for inspections at the time of the initial inspection; notification to the owner or interested parties; and the timeframe for making corrections.

Ms. McKee-Huger voiced concern for the owner and tenant being present at the initial inspection; and voiced agreement that the owner needed to know what repairs needed to be made.

Councilmember Hoffmann inquired about the process if the vacant property was an apartment that was not being rented and the owner was waiting to repair several units within a building at the same time.

Ms. McKee-Huger stated that if penalties were to be imposed on non-residential and owner occupied properties then they should be imposed on vacant properties as well; and referenced that adjoining units could be affected by vacant units left in disrepair.

Councilmember Hoffmann voiced the concern that the Committee might hear from the landlord community that if they planned to rehab multiple units in the same building it would be beneficial for that they have one crew out to repair the units at the same time; and voiced the need for the PCD Director to have a written plan from the owner.

Ms. McKee-Huger spoke to unrepaired vacant units placing a risk to surrounding properties for the length of time the units remained unrepaired and reiterated the need to include vacant properties in the penalty process.

Councilmember Vaughan expressed concerns with single family dwellings left vacant; and the negative impact and safety issues they had on surrounding properties.

Ms. Schwartz explained that there was a special provision in place that prevented owners from boarding up property as a method of compliance, that the deficiencies needed to be addressed; explained that abandoned properties were boarded up for security reasons but the current ordinance did not prevent someone from boarding up their properties; stated that the department and Minimum Housing Commission were working through the backlog of boarded up properties; and that the City was one of the few cities that had special legislation which prohibited a property being boarded up as a method of compliance.

Councilmember Hoffmann addressed the difference between a single family dwelling impacting a neighborhood and taking an individual apartment offline in a section of building where the owner intended to rehab several units.

Mr. Pendergraft referenced Section 11-4 of the current ordinance; and spoke to the experience and judgment of trained inspectors.

Michelle Kennedy, 2609 West Cornwallis Drive, voiced concern with the single family dwelling versus multi-family dwelling issues; addressed the impact an unrepaired unit in a multi-family building could have on an adjoining unit; provided specific examples of disrepair to connected units that were not experienced in single family dwellings; issues with leaving connected units in disrepair; and spoke to the safety of tenants.

Councilmember Hoffmann requested an explanation for the scenario Ms. Kennedy referenced when the lower level was uninhabited with violations and the upper unit had tenants.

Ms. Schwartz explained that an inspector would look at and evaluate both units as the complaint was impacted by an adjoining unit; addressed issues with not being able to single out and demolish an individual unit in a multi-family dwelling; dilemma in dealing with connected units; spoke to the reasonableness tests; and explained that the inspector could write up both units if it appeared damage was leaking into the adjoining unit as this would be a public health and safety component.

Ms. Kennedy spoke to the amount of variables and gray areas in multi-family dwellings; and emphasized that it was critical to look at the vacant property component of the ordinance to ensure that multi-family units did not fall off the chart.

Attorney Williams stated the consequences that would occur to owners if vacant properties caused damage to adjoining units when not under common ownership.

Thomas White, 1514 Independence Road, spoke to situations where there was imminent danger to an adjoining unit when a property remained in disrepair; and spoke to the landlords' perspective when a vacant unit with violations that did not affect other units should not be charged fees.

Councilmember Hoffmann requested clarification that it would be the intent that the owner had other units they wanted to rehab.

Mr. White confirmed that it would be from an expense perspective; that repairs for units that had violations that would impact and threaten adjoining units would be addressed immediately; referenced a paragraph in the Neighborhood Congress' documentation that would enable the City to decide how owners could market units; and stated that the ability to rent should not be impeded by the ordinance.

Mr. Pendergraft added that it was currently the policy of Greensboro to prohibit the rental of a unit that inspectors found uninhabitable and that the question was when should the owner be prohibited from renting a unit that was uninhabitable; and provided that the policy should state that it was unlawful to rent a unit where someone knew the unit was unfit for human habitation.

Attorney Williams stated that the inspector was the only person who could find a building unfit for human habitation as per Section 11-12 of the Code and read for the record Section 11-12(b) "When the inspector finds that a building is unfit for human habitation within the meaning of this chapter and has notified the owner to such effect and the time limit set by the inspector for the correction of defects and vacating same has expired, no person shall receive rentals, offer for rent, or occupy said building for any purpose".

Dawn Chaney, 408 Blandwood Avenue, stated that as a landlord she wanted the housing to be in excellent condition; hoped that the ordinance would fulfill that; referenced that there were cases where the landlord should not be present at the inspection; that a person owning property that wanted to lease it should meet the requirements when there was a violation; and stated she hoped that the landlord or their representative would be allowed at the inspection and not intimidate the inspector or jeopardize the position of the tenant.

Mr. Higgins added that there should be a process in place to remedy when one unit out of a 300 unit complex was not up to code; voiced agreement that an apartment with uncured violations should not remain uncured if said unit adjoined a unit with tenants; suggested having a mechanism in place where the unit could remain with minor violations; spoke to situations where the violations were not major; and the benefits of upfitting multi-family units.

Councilmember Hoffmann spoke to landlord concerns with the fine level of \$75.00 per day.

Ms. Kennedy voiced concerns between minor and major violations; that leaving minor repairs uncured were unsafe; spoke to existing vacant units that already had code compliance issues; and added that a combination of several minor violations could be more dangerous than one major violation.

Deputy City Manager Jim Westmoreland confirmed that the Committee had received comments from the public; asked for direction from the Committee on items that would need to be modified in the proposed ordinance; and suggested the Committee review the revised ordinance prior to the next meeting.

Councilmember Vaughan voiced concern with small groups and suggested the Committee continue to work in its entirety in an open meeting. Mayor Pro-Tem Johnson voiced agreement for the process suggested by Councilmember Vaughan.

It was the consensus of the Committee that they meet with staff and have an open work session, rather than small groups, on Tuesday, May 14<sup>th</sup> in the Plaza Level Conference Room at 10:30 a.m.

Deputy City Manager Westmoreland confirmed that a draft ordinance would be ready at the next meeting.

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Councilmember Vaughan made a motion to adjourn. The motion was seconded by Councilmember Abuzuaiter; the Post RUCO Review Committee was adjourned at 4:25 p.m. by voice vote of the Committee.

ELIZABETH H. RICHARDSON  
CITY CLERK

NANCY HOFFMANN  
CHAIRMAN & COUNCILMEMBER